

1 **SEC. 3506. REPORTING OF ADMINISTERED AND OVERSIGHT**
 2 **FUNDS.**

3 The Maritime Administration, in its annual report to
 4 the Congress under section 208 of the Merchant Marine
 5 Act, 1936 (46 U.S.C. App. 1118), and in its annual budg-
 6 et estimate submitted to the Congress, shall state sepa-
 7 rately the amount, source, intended use, and nature of any
 8 funds (other than funds appropriated to the Administra-
 9 tion or to the Secretary of Transportation for use by the
 10 Administration) administered, or subject to oversight, by
 11 the Administration.

12 **TITLE XXXVI—ENERGY EMPLOY-**
 13 **EES OCCUPATIONAL ILLNESS**
 14 **COMPENSATION PROGRAM**

Sec. 3601. Short title.

Sec. 3602. Findings; sense of Congress.

**Subtitle A—Establishment of Compensation Program and
 Compensation Fund**

Sec. 3611. Establishment of Energy Employees Occupational Illness Compensa-
 tion Program.

Sec. 3612. Establishment of Energy Employees Occupational Illness Compensa-
 tion Fund.

Sec. 3613. Legislative proposal.

Sec. 3614. Authorization of appropriations.

Subtitle B—Program Administration

Sec. 3621. Definitions for program administration.

Sec. 3622. Expansion of list of beryllium vendors.

Sec. 3623. Exposure in the performance of duty.

Sec. 3624. Advisory Board on Radiation and Worker Health.

Sec. 3625. Responsibilities of Secretary of Health and Human Services.

Sec. 3626. Designation of additional members of Special Exposure Cohort.

Sec. 3627. Separate treatment of chronic silicosis.

Sec. 3628. Compensation and benefits to be provided.

Sec. 3629. Medical benefits.

Sec. 3630. Separate treatment of certain uranium employees.

Sec. 3631. Assistance for claimants and potential claimants.

**Subtitle C—Treatment, Coordination, and Forfeiture of
Compensation and Benefits**

- Sec. 3641. Offset for certain payments.
- Sec. 3642. Subrogation of the United States.
- Sec. 3643. Payment in full settlement of claims.
- Sec. 3644. Exclusivity of remedy against the United States and against contractors and subcontractors.
- Sec. 3645. Election of remedy for beryllium employees and atomic weapons employees.
- Sec. 3646. Certification of treatment of payments under other laws.
- Sec. 3647. Claims not assignable or transferable; choice of remedies.
- Sec. 3648. Attorney fees.
- Sec. 3649. Certain claims not affected by awards of damages.
- Sec. 3650. Forfeiture of benefits by convicted felons.
- Sec. 3651. Coordination with other Federal radiation compensation laws.

**Subtitle D—Assistance in State Workers’ Compensation
Proceedings**

- Sec. 3661. Agreements with States.

1 SEC. 3601. SHORT TITLE.

2 This title may be cited as the “Energy Employees
3 Occupational Illness Compensation Program Act of
4 2000”.

5 SEC. 3602. FINDINGS; SENSE OF CONGRESS.

6 (a) FINDINGS.—The Congress finds the following:

7 (1) Since World War II, Federal nuclear activi-
8 ties have been explicitly recognized under Federal
9 law as activities that are ultra-hazardous. Nuclear
10 weapons production and testing have involved unique
11 dangers, including potential catastrophic nuclear ac-
12 cidents that private insurance carriers have not cov-
13 ered and recurring exposures to radioactive sub-
14 stances and beryllium that, even in small amounts,
15 can cause medical harm.

1 (2) Since the inception of the nuclear weapons
2 program and for several decades afterwards, a large
3 number of nuclear weapons workers at sites of the
4 Department of Energy and at sites of vendors who
5 supplied the Cold War effort were put at risk with-
6 out their knowledge and consent for reasons that,
7 documents reveal, were driven by fears of adverse
8 publicity, liability, and employee demands for haz-
9 ardous duty pay.

10 (3) Many previously secret records have docu-
11 mented unmonitored exposures to radiation and be-
12 ryllium and continuing problems at these sites
13 across the Nation, at which the Department of En-
14 ergy and its predecessor agencies have been, since
15 World War II, self-regulating with respect to nuclear
16 safety and occupational safety and health. No other
17 hazardous Federal activity has been permitted to be
18 carried out under such sweeping powers of self-regu-
19 lation.

20 (4) The policy of the Department of Energy has
21 been to litigate occupational illness claims, which has
22 deterred workers from filing workers' compensation
23 claims and has imposed major financial burdens for
24 such employees who have sought compensation. Con-
25 tractors of the Department have been held harmless

1 and the employees have been denied workers' com-
2 pensation coverage for occupational disease.

3 (5) Over the past 20 years, more than two
4 dozen scientific findings have emerged that indicate
5 that certain of such employees are experiencing in-
6 creased risks of dying from cancer and non-malig-
7 nant diseases. Several of these studies have also es-
8 tablished a correlation between excess diseases and
9 exposure to radiation and beryllium.

10 (6) While linking exposure to occupational haz-
11 ards with the development of occupational disease is
12 sometimes difficult, scientific evidence supports the
13 conclusion that occupational exposure to dust par-
14 ticles or vapor of beryllium can cause beryllium sen-
15 sitivity and chronic beryllium disease. Furthermore,
16 studies indicate that 98 percent of radiation-induced
17 cancers within the nuclear weapons complex have oc-
18 curred at dose levels below existing maximum safe
19 thresholds.

20 (7) Existing information indicates that State
21 workers' compensation programs do not provide a
22 uniform means of ensuring adequate compensation
23 for the types of occupational illnesses and diseases
24 that relate to the employees at those sites.

1 (8) To ensure fairness and equity, the civilian
2 men and women who, over the past 50 years, have
3 performed duties uniquely related to the nuclear
4 weapons production and testing programs of the De-
5 partment of Energy and its predecessor agencies
6 should have efficient, uniform, and adequate com-
7 pensation for beryllium-related health conditions and
8 radiation-related health conditions.

9 (9) On April 12, 2000, the Secretary of Energy
10 announced that the Administration intended to seek
11 compensation for individuals with a broad range of
12 work-related illnesses throughout the Department of
13 Energy's nuclear weapons complex.

14 (10) However, as of October 2, 2000, the Ad-
15 ministration has failed to provide Congress with the
16 necessary legislative and budget proposals to enact
17 the promised compensation program.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that—

20 (1) a program should be established to provide
21 compensation to covered employees;

22 (2) a fund for payment of such compensation
23 should be established on the books of the Treasury;

24 (3) payments from that fund should be made
25 only after—

1 (A) the identification of employees of the
2 Department of Energy (including its prede-
3 cessor agencies), and of contractors of the De-
4 partment, who may be members of the group of
5 covered employees;

6 (B) the establishment of a process to re-
7 ceive and administer claims for compensation
8 for disability or death of covered employees;

9 (C) the submittal by the President of a
10 legislative proposal for compensation of such
11 employees that includes the estimated annual
12 budget resources for that compensation; and

13 (D) consideration by the Congress of the
14 legislative proposal submitted by the President;
15 and

16 (4) payments from that fund should commence
17 not later than fiscal year 2002.

18 **Subtitle A—Establishment of Com-**
19 **ensation Program and Com-**
20 **ensation Fund**

21 **SEC. 3611. ESTABLISHMENT OF ENERGY EMPLOYEES OCCU-**
22 **PATIONAL ILLNESS COMPENSATION PRO-**
23 **GRAM.**

24 (a) PROGRAM ESTABLISHED.—There is hereby estab-
25 lished a program to be known as the “Energy Employees

1 Occupational Illness Compensation Program” (in this title
2 referred to as the “compensation program”). The Presi-
3 dent shall carry out the compensation program through
4 one or more Federal agencies or officials, as designated
5 by the President.

6 (b) PURPOSE OF PROGRAM.—The purpose of the
7 compensation program is to provide for timely, uniform,
8 and adequate compensation of covered employees and,
9 where applicable, survivors of such employees, suffering
10 from illnesses incurred by such employees in the perform-
11 ance of duty for the Department of Energy and certain
12 of its contractors and subcontractors.

13 (c) ELIGIBILITY FOR COMPENSATION.—The eligi-
14 bility of covered employees for compensation under the
15 compensation program shall be determined in accordance
16 with the provisions of subtitle B as may be modified by
17 a law enacted after the date of the submittal of the pro-
18 posal for legislation required by section 3613.

19 **SEC. 3612. ESTABLISHMENT OF ENERGY EMPLOYEES OCCU-**
20 **PATIONAL ILLNESS COMPENSATION FUND.**

21 (a) ESTABLISHMENT.—There is hereby established
22 on the books of the Treasury a fund to be known as the
23 “Energy Employees Occupational Illness Compensation
24 Fund” (in this title referred to as the “compensation
25 fund”).

1 (b) AMOUNTS IN COMPENSATION FUND.—The com-
2 pensation fund shall consist of the following amounts:

3 (1) Amounts appropriated to the compensation
4 fund pursuant to the authorization of appropriations
5 in section 3614(b).

6 (2) Amounts transferred to the compensation
7 fund under subsection (c).

8 (c) FINANCING OF COMPENSATION FUND.—Upon
9 the exhaustion of amounts in the compensation fund at-
10 tributable to the authorization of appropriations in section
11 3614(b), the Secretary of the Treasury shall transfer di-
12 rectly to the compensation fund from the General Fund
13 of the Treasury, without further appropriation, such
14 amounts as are further necessary to carry out the com-
15 pensation program.

16 (d) USE OF COMPENSATION FUND.—Subject to sub-
17 section (e), amounts in the compensation fund shall be
18 used to carry out the compensation program.

19 (e) ADMINISTRATIVE COSTS NOT PAID FROM COM-
20 PENSATION FUND.—No cost incurred in carrying out the
21 compensation program, or in administering the compensa-
22 tion fund, shall be paid from the compensation fund or
23 set off against or otherwise deducted from any payment
24 to any individual under the compensation program.

1 (f) INVESTMENT OF AMOUNTS IN COMPENSATION
2 FUND.—Amounts in the compensation fund shall be in-
3 vested in accordance with section 9702 of title 31, United
4 States Code, and any interest on, and proceeds from, any
5 such investment shall be credited to and become a part
6 of the compensation fund.

7 **SEC. 3613. LEGISLATIVE PROPOSAL.**

8 (a) LEGISLATIVE PROPOSAL REQUIRED.—Not later
9 than March 15, 2001, the President shall submit to Con-
10 gress a proposal for legislation to implement the com-
11 pensation program. The proposal for legislation shall in-
12 clude, at a minimum, the specific recommendations (in-
13 cluding draft legislation) of the President for the fol-
14 lowing:

15 (1) The types of compensation and benefits, in-
16 cluding lost wages, medical benefits, and any lump-
17 sum settlement payments, to be provided under the
18 compensation program.

19 (2) Any adjustments or modifications necessary
20 to appropriately administer the compensation pro-
21 gram under subtitle B.

22 (3) Whether to expand the compensation pro-
23 gram to include other illnesses associated with expo-
24 sure to toxic substances.

1 (4) Whether to expand the class of individuals
2 who are members of the Special Exposure Cohort
3 (as defined in section 3621(14)).

4 (b) ASSESSMENT OF POTENTIAL COVERED EMPLOY-
5 EES AND REQUIRED AMOUNTS.—The President shall in-
6 clude with the proposal for legislation under subsection (a)
7 the following:

8 (1) An estimate of the number of covered em-
9 ployees that the President determines were exposed
10 in the performance of duty.

11 (2) An estimate, for each fiscal year of the com-
12 pensation program, of the amounts to be required
13 for compensation and benefits anticipated to be pro-
14 vided in such fiscal year under the compensation
15 program.

16 **SEC. 3614. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) IN GENERAL.—Pursuant to the authorization of
18 appropriations in section 3103(a), \$25,000,000 may be
19 used for purposes of carrying out this title.

20 (b) COMPENSATION FUND.—There is hereby author-
21 ized to be appropriated \$250,000,000 to the Energy Em-
22 ployees Occupational Illness Compensation Fund estab-
23 lished by section 3612.

Subtitle B—Program Administration

SEC. 3621. DEFINITIONS FOR PROGRAM ADMINISTRATION.

In this title:

(1) The term “covered employee” means any of the following:

(A) A covered beryllium employee.

(B) A covered employee with cancer.

(C) To the extent provided in section 3627, a covered employee with chronic silicosis (as defined in that section).

(2) The term “atomic weapon” has the meaning given that term in section 11 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d)).

(3) The term “atomic weapons employee” means an individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(4) The term “atomic weapons employer” means an entity, other than the United States, that—

1 (A) processed or produced, for use by the
2 United States, material that emitted radiation
3 and was used in the production of an atomic
4 weapon, excluding uranium mining and milling;
5 and

6 (B) is designated by the Secretary of En-
7 ergy as an atomic weapons employer for pur-
8 poses of the compensation program.

9 (5) The term “atomic weapons employer facil-
10 ity” means a facility, owned by an atomic weapons
11 employer, that is or was used to process or produce,
12 for use by the United States, material that emitted
13 radiation and was used in the production of an
14 atomic weapon, excluding uranium mining or mill-
15 ing.

16 (6) The term “beryllium vendor” means any of
17 the following:

18 (A) Atomics International.

19 (B) Brush Wellman, Incorporated, and its
20 predecessor, Brush Beryllium Company.

21 (C) General Atomics.

22 (D) General Electric Company.

23 (E) NGK Metals Corporation and its pred-
24 ecessors, Kawecki-Berylco, Cabot Corporation,

1 BerylCo, and Beryllium Corporation of Amer-
2 ica.

3 (F) Nuclear Materials and Equipment Cor-
4 poration.

5 (G) StarMet Corporation and its prede-
6 cessor, Nuclear Metals, Incorporated.

7 (H) Wyman Gordan, Incorporated.

8 (I) Any other vendor, processor, or pro-
9 ducer of beryllium or related products des-
10 igned as a beryllium vendor for purposes of
11 the compensation program under section 3622.

12 (7) The term “covered beryllium employee”
13 means the following, if and only if the employee is
14 determined to have been exposed to beryllium in the
15 performance of duty in accordance with section
16 3623(a):

17 (A) A current or former employee (as that
18 term is defined in section 8101(1) of title 5,
19 United States Code) who may have been ex-
20 posed to beryllium at a Department of Energy
21 facility or at a facility owned, operated, or occu-
22 pied by a beryllium vendor.

23 (B) A current or former employee of—

24 (i) any entity that contracted with the
25 Department of Energy to provide manage-

1 ment and operation, management and inte-
2 gration, or environmental remediation of a
3 Department of Energy facility; or

4 (ii) any contractor or subcontractor
5 that provided services, including construc-
6 tion and maintenance, at such a facility.

7 (C) A current or former employee of a be-
8 ryllium vendor, or of a contractor or subcon-
9 tractor of a beryllium vendor, during a period
10 when the vendor was engaged in activities re-
11 lated to the production or processing of beryl-
12 lium for sale to, or use by, the Department of
13 Energy.

14 (8) The term “covered beryllium illness” means
15 any of the following:

16 (A) Beryllium sensitivity as established by
17 an abnormal beryllium lymphocyte proliferation
18 test performed on either blood or lung lavage
19 cells.

20 (B) Established chronic beryllium disease.

21 (C) Any injury, illness, impairment, or dis-
22 ability sustained as a consequence of a covered
23 beryllium illness referred to in subparagraph
24 (A) or (B).

1 (9) The term “covered employee with cancer”
2 means any of the following:

3 (A) An individual with a specified cancer
4 who is a member of the Special Exposure Co-
5 hort, if and only if that individual contracted
6 that specified cancer after beginning employ-
7 ment at a Department of Energy facility (in the
8 case of a Department of Energy employee or
9 Department of Energy contractor employee) or
10 at an atomic weapons employer facility (in the
11 case of an atomic weapons employee).

12 (B)(i) An individual with cancer specified
13 in subclause (I), (II), or (III) of clause (ii), if
14 and only if that individual is determined to have
15 sustained that cancer in the performance of
16 duty in accordance with section 3623(b).

17 (ii) Clause (i) applies to any of the fol-
18 lowing:

19 (I) A Department of Energy employee
20 who contracted that cancer after beginning
21 employment at a Department of Energy
22 facility.

23 (II) A Department of Energy con-
24 tractor employee who contracted that can-

1 cer after beginning employment at a De-
2 partment of Energy facility.

3 (III) An atomic weapons employee
4 who contracted that cancer after beginning
5 employment at an atomic weapons em-
6 ployer facility.

7 (10) The term “Department of Energy” in-
8 cludes the predecessor agencies of the Department
9 of Energy, including the Manhattan Engineering
10 District.

11 (11) The term “Department of Energy con-
12 tractor employee” means any of the following:

13 (A) An individual who is or was in resi-
14 dence at a Department of Energy facility as a
15 researcher for one or more periods aggregating
16 at least 24 months.

17 (B) An individual who is or was employed
18 at a Department of Energy facility by—

19 (i) an entity that contracted with the
20 Department of Energy to provide manage-
21 ment and operating, management and inte-
22 gration, or environmental remediation at
23 the facility; or

1 (ii) a contractor or subcontractor that
2 provided services, including construction
3 and maintenance, at the facility.

4 (12) The term “Department of Energy facility”
5 means any building, structure, or premise, including
6 the grounds upon which such building, structure, or
7 premise is located—

8 (A) in which operations are, or have been,
9 conducted by, or on behalf of, the Department
10 of Energy (except for buildings, structures,
11 premises, grounds, or operations covered by Ex-
12 ecutive Order No. 12344, dated February 1,
13 1982 (42 U.S.C. 7158 note), pertaining to the
14 Naval Nuclear Propulsion Program); and

15 (B) with regard to which the Department
16 of Energy has or had—

17 (i) a proprietary interest; or

18 (ii) entered into a contract with an
19 entity to provide management and oper-
20 ation, management and integration, envi-
21 ronmental remediation services, construc-
22 tion, or maintenance services.

23 (13) The term “established chronic beryllium
24 disease” means chronic beryllium disease as estab-
25 lished by the following:

1 (A) For diagnoses on or after January 1,
2 1993, beryllium sensitivity (as established in ac-
3 cordance with paragraph (8)(A)), together with
4 lung pathology consistent with chronic beryl-
5 lium disease, including—

6 (i) a lung biopsy showing granulomas
7 or a lymphocytic process consistent with
8 chronic beryllium disease;

9 (ii) a computerized axial tomography
10 scan showing changes consistent with
11 chronic beryllium disease; or

12 (iii) pulmonary function or exercise
13 testing showing pulmonary deficits con-
14 sistent with chronic beryllium disease.

15 (B) For diagnoses before January 1, 1993,
16 the presence of—

17 (i) occupational or environmental his-
18 tory, or epidemiologic evidence of beryllium
19 exposure; and

20 (ii) any three of the following criteria:

21 (I) Characteristic chest radio-
22 graphic (or computed tomography
23 (CT)) abnormalities.

1 (II) Restrictive or obstructive
2 lung physiology testing or diffusing
3 lung capacity defect.

4 (III) Lung pathology consistent
5 with chronic beryllium disease.

6 (IV) Clinical course consistent
7 with a chronic respiratory disorder.

8 (V) Immunologic tests showing
9 beryllium sensitivity (skin patch test
10 or beryllium blood test preferred).

11 (14) The term “member of the Special Expo-
12 sure Cohort” means a Department of Energy em-
13 ployee, Department of Energy contractor employee,
14 or atomic weapons employee who meets any of the
15 following requirements:

16 (A) The employee was so employed for a
17 number of work days aggregating at least 250
18 work days before February 1, 1992, at a gas-
19 eous diffusion plant located in Paducah, Ken-
20 tucky, Portsmouth, Ohio, or Oak Ridge, Ten-
21 nessee, and, during such employment—

22 (i) was monitored through the use of
23 dosimetry badges for exposure at the plant
24 of the external parts of employee’s body to
25 radiation; or

1 (ii) worked in a job that had expo-
2 sures comparable to a job that is or was
3 monitored through the use of dosimetry
4 badges.

5 (B) The employee was so employed before
6 January 1, 1974, by the Department of Energy
7 or a Department of Energy contractor or sub-
8 contractor on Amchitka Island, Alaska, and was
9 exposed to ionizing radiation in the perform-
10 ance of duty related to the Long Shot, Milrow,
11 or Cannikin underground nuclear tests.

12 (C)(i) Subject to clause (ii), the employee
13 is an individual designated as a member of the
14 Special Exposure Cohort by the President for
15 purposes of the compensation program under
16 section 3626.

17 (ii) A designation under clause (i) shall,
18 unless Congress otherwise provides, take effect
19 on the date that is 180 days after the date on
20 which the President submits to Congress a re-
21 port identifying the individuals covered by the
22 designation and describing the criteria used in
23 designating those individuals.

24 (15) The term “occupational illness” means a
25 covered beryllium illness, cancer referred to in sec-

1 tion 3621(9)(B), specified cancer, or chronic sili-
2 cosis, as the case may be.

3 (16) The term “radiation” means ionizing radi-
4 ation in the form of—

5 (A) alpha particles;

6 (B) beta particles;

7 (C) neutrons;

8 (D) gamma rays; or

9 (E) accelerated ions or subatomic particles
10 from accelerator machines.

11 (17) The term “specified cancer” means any of
12 the following:

13 (A) A specified disease, as that term is de-
14 fined in section 4(b)(2) of the Radiation Expo-
15 sure Compensation Act (42 U.S.C. 2210 note).

16 (B) Bone cancer.

17 (18) The term “survivor” means any individual
18 or individuals eligible to receive compensation pursu-
19 ant to section 8133 of title 5, United States Code.

20 **SEC. 3622. EXPANSION OF LIST OF BERYLLIUM VENDORS.**

21 Not later than December 31, 2002, the President
22 may, in consultation with the Secretary of Energy, des-
23 ignate as a beryllium vendor for purposes of section
24 3621(6) any vendor, processor, or producer of beryllium
25 or related products not previously listed under or des-

1 ignated for purposes of such section 3621(6) if the Presi-
2 dent finds that such vendor, processor, or producer has
3 been engaged in activities related to the production or
4 processing of beryllium for sale to, or use by, the Depart-
5 ment of Energy in a manner similar to the entities listed
6 in such section 3621(6).

7 **SEC. 3623. EXPOSURE IN THE PERFORMANCE OF DUTY.**

8 (a) BERYLLIUM.—A covered beryllium employee
9 shall, in the absence of substantial evidence to the con-
10 trary, be determined to have been exposed to beryllium
11 in the performance of duty for the purposes of the com-
12 pensation program if, and only if, the covered beryllium
13 employee was—

14 (1) employed at a Department of Energy facil-
15 ity; or

16 (2) present at a Department of Energy facility,
17 or a facility owned and operated by a beryllium ven-
18 dor, because of employment by the United States, a
19 beryllium vendor, or a contractor or subcontractor of
20 the Department of Energy;

21 during a period when beryllium dust, particles, or vapor
22 may have been present at such facility.

23 (b) CANCER.—An individual with cancer specified in
24 subclause (I), (II), or (III) of section 3621(9)(B)(ii) shall
25 be determined to have sustained that cancer in the per-

1 formance of duty for purposes of the compensation pro-
2 gram if, and only if, the cancer specified in that subclause
3 was at least as likely as not related to employment at the
4 facility specified in that subclause, as determined in ac-
5 cordance with the guidelines established under subsection
6 (c).

7 (c) GUIDELINES.—(1) For purposes of the compensa-
8 tion program, the President shall by regulation establish
9 guidelines for making the determinations required by sub-
10 section (b).

11 (2) The President shall establish such guidelines after
12 technical review by the Advisory Board on Radiation and
13 Worker Health under section 3624.

14 (3) Such guidelines shall—

15 (A) be based on the radiation dose received by
16 the employee (or a group of employees performing
17 similar work) at such facility and the upper 99 per-
18 cent confidence interval of the probability of causa-
19 tion in the radioepidemiological tables published
20 under section 7(b) of the Orphan Drug Act (42
21 U.S.C. 241 note), as such tables may be updated
22 under section 7(b)(3) of such Act from time to time;

23 (B) incorporate the methods established under
24 subsection (d); and

1 (C) take into consideration the type of cancer,
2 past health-related activities (such as smoking), in-
3 formation on the risk of developing a radiation-re-
4 lated cancer from workplace exposure, and other rel-
5 evant factors.

6 (d) METHODS FOR RADIATION DOSE RECONSTRUC-
7 TIONS.—(1) The President shall, through any Federal
8 agency (other than the Department of Energy) or official
9 (other than the Secretary of Energy or any other official
10 within the Department of Energy) that the President may
11 designate, establish by regulation methods for arriving at
12 reasonable estimates of the radiation doses received by an
13 individual specified in subparagraph (B) of section
14 3621(9) at a facility specified in that subparagraph by
15 each of the following employees:

16 (A) An employee who was not monitored for ex-
17 posure to radiation at such facility.

18 (B) An employee who was monitored inad-
19 equately for exposure to radiation at such facility.

20 (C) An employee whose records of exposure to
21 radiation at such facility are missing or incomplete.

22 (2) The President shall establish an independent re-
23 view process using the Advisory Board on Radiation and
24 Worker Health to—

1 (A) assess the methods established under para-
2 graph (1); and

3 (B) verify a reasonable sample of the doses es-
4 tablished under paragraph (1).

5 (e) INFORMATION ON RADIATION DOSES.—(1) The
6 Secretary of Energy shall provide, to each covered em-
7 ployee with cancer specified in section 3621(9)(B), infor-
8 mation specifying the estimated radiation dose of that em-
9 ployee during each employment specified in section
10 3621(9)(B), whether established by a dosimetry reading,
11 by a method established under subsection (d), or by both
12 a dosimetry reading and such method.

13 (2) The Secretary of Health and Human Services and
14 the Secretary of Energy shall each make available to re-
15 searchers and the general public information on the as-
16 sumptions, methodology, and data used in establishing ra-
17 diation doses under subsection (d). The actions taken
18 under this paragraph shall be consistent with the protec-
19 tion of private medical records.

20 **SEC. 3624. ADVISORY BOARD ON RADIATION AND WORKER**
21 **HEALTH.**

22 (a) ESTABLISHMENT.—(1) Not later than 120 days
23 after the date of the enactment of this Act, the President
24 shall establish and appoint an Advisory Board on Radi-

1 ation and Worker Health (in this section referred to as
2 the “Board”).

3 (2) The President shall make appointments to the
4 Board in consultation with organizations with expertise on
5 worker health issues in order to ensure that the member-
6 ship of the Board reflects a balance of scientific, medical,
7 and worker perspectives.

8 (3) The President shall designate a Chair for the
9 Board from among its members.

10 (b) DUTIES.—The Board shall advise the President
11 on—

12 (1) the development of guidelines under section
13 3623(c);

14 (2) the scientific validity and quality of dose es-
15 timation and reconstruction efforts being performed
16 for purposes of the compensation program; and

17 (3) such other matters related to radiation and
18 worker health in Department of Energy facilities as
19 the President considers appropriate.

20 (c) STAFF.—(1) The President shall appoint a staff
21 to facilitate the work of the Board. The staff shall be
22 headed by a Director who shall be appointed under sub-
23 chapter VIII of chapter 33 of title 5, United States Code.

24 (2) The President may accept as staff of the Board
25 personnel on detail from other Federal agencies. The de-

1 tail of personnel under this paragraph may be on a non-
2 reimbursable basis.

3 (d) EXPENSES.—Members of the Board, other than
4 full-time employees of the United States, while attending
5 meetings of the Board or while otherwise serving at the
6 request of the President, while serving away from their
7 homes or regular places of business, shall be allowed travel
8 and meal expenses, including per diem in lieu of subsist-
9 ence, as authorized by section 5703 of title 5, United
10 States Code, for individuals in the Government serving
11 without pay.

12 **SEC. 3625. RESPONSIBILITIES OF SECRETARY OF HEALTH**
13 **AND HUMAN SERVICES.**

14 The Secretary of Health and Human Services shall
15 carry out that Secretary's responsibilities with respect to
16 the compensation program with the assistance of the Di-
17 rector of the National Institute for Occupational Safety
18 and Health.

19 **SEC. 3626. DESIGNATION OF ADDITIONAL MEMBERS OF**
20 **SPECIAL EXPOSURE COHORT.**

21 (a) ADVICE ON ADDITIONAL MEMBERS.—(1) The
22 Advisory Board on Radiation and Worker Health under
23 section 3624 shall advise the President whether there is
24 a class of employees at any Department of Energy facility
25 who likely were exposed to radiation at that facility but

1 for whom it is not feasible to estimate with sufficient accu-
2 racy the radiation dose they received.

3 (2) The advice of the Advisory Board on Radiation
4 and Worker Health under paragraph (1) shall be based
5 on exposure assessments by radiation health professionals,
6 information provided by the Department of Energy, and
7 such other information as the Advisory Board considers
8 appropriate.

9 (3) The President shall request advice under para-
10 graph (1) after consideration of petitions by classes of em-
11 ployees described in that paragraph for such advice. The
12 President shall consider such petitions pursuant to proce-
13 dures established by the President.

14 (b) DESIGNATION OF ADDITIONAL MEMBERS.—Sub-
15 ject to the provisions of section 3621(14)(C), the members
16 of a class of employees at a Department of Energy facility
17 may be treated as members of the Special Exposure Co-
18 hort for purposes of the compensation program if the
19 President, upon recommendation of the Advisory Board
20 on Radiation and Worker Health, determines that—

21 (1) it is not feasible to estimate with sufficient
22 accuracy the radiation dose that the class received;
23 and

1 (2) there is a reasonable likelihood that such
2 radiation dose may have endangered the health of
3 members of the class.

4 (c) ACCESS TO INFORMATION.—The Secretary of En-
5 ergy shall provide, in accordance with law, the Secretary
6 of Health and Human Services and the members and staff
7 of the Advisory Board on Radiation and Worker Health
8 access to relevant information on worker exposures, in-
9 cluding access to Restricted Data (as defined in section
10 11 y. of the Atomic Energy Act of 1954 (42 U.S.C.
11 2014(y)).

12 **SEC. 3627. SEPARATE TREATMENT OF CHRONIC SILICOSIS.**

13 (a) SENSE OF CONGRESS.—The Congress finds that
14 employees who worked in Department of Energy test sites
15 and later contracted chronic silicosis should also be consid-
16 ered for inclusion in the compensation program. Recogn-
17 izing that chronic silicosis resulting from exposure to sili-
18 ca is not a condition unique to the nuclear weapons indus-
19 try, it is not the intent of Congress with this title to estab-
20 lish a precedent on the question of chronic silicosis as a
21 compensable occupational disease. Consequently, it is the
22 sense of Congress that a further determination by the
23 President is appropriate before these workers are included
24 in the compensation program.

1 (b) CERTIFICATION BY PRESIDENT.—A covered em-
2 ployee with chronic silicosis shall be treated as a covered
3 employee (as defined in section 3621(1)) for the purposes
4 of the compensation program required by section 3611 un-
5 less the President submits to Congress not later than 180
6 days after the date of the enactment of this Act the certifi-
7 cation of the President that there is insufficient basis to
8 include such employees. The President shall submit with
9 the certification any recommendations about the com-
10 pensation program with respect to covered employees with
11 chronic silicosis as the President considers appropriate.

12 (c) EXPOSURE TO SILICA IN THE PERFORMANCE OF
13 DUTY.—A covered employee shall, in the absence of sub-
14 stantial evidence to the contrary, be determined to have
15 been exposed to silica in the performance of duty for the
16 purposes of the compensation program if, and only if, the
17 employee was present for a number of work days aggre-
18 gating at least 250 work days during the mining of tun-
19 nels at a Department of Energy facility located in Nevada
20 or Alaska for tests or experiments related to an atomic
21 weapon.

22 (d) COVERED EMPLOYEE WITH CHRONIC SILI-
23 COSIS.—For purposes of this title, the term “covered em-
24 ployee with chronic silicosis” means a Department of En-
25 ergy employee, or a Department of Energy contractor em-

1 ployee, with chronic silicosis who was exposed to silica in
2 the performance of duty as determined under subsection
3 (c).

4 (e) CHRONIC SILICOSIS.—For purposes of this title,
5 the term “chronic silicosis” means a non-malignant lung
6 disease if—

7 (1) the initial occupational exposure to silica
8 dust preceded the onset of silicosis by at least 10
9 years; and

10 (2) a written diagnosis of silicosis is made by
11 a medical doctor and is accompanied by—

12 (A) a chest radiograph, interpreted by an
13 individual certified by the National Institute for
14 Occupational Safety and Health as a B reader,
15 classifying the existence of pneumoconioses of
16 category 1/1 or higher;

17 (B) results from a computer assisted
18 tomograph or other imaging technique that are
19 consistent with silicosis; or

20 (C) lung biopsy findings consistent with
21 silicosis.

22 **SEC. 3628. COMPENSATION AND BENEFITS TO BE PRO-**
23 **VIDED.**

24 (a) COMPENSATION PROVIDED.—(1) Except as pro-
25 vided in paragraph (2), a covered employee, or the sur-

1 vivor of that covered employee if the employee is deceased,
2 shall receive compensation for the disability or death of
3 that employee from that employee's occupational illness in
4 the amount of \$150,000.

5 (2) A covered employee shall, to the extent that em-
6 ployee's occupational illness is established beryllium sensi-
7 tivity, receive beryllium sensitivity monitoring under sub-
8 section (c) in lieu of compensation under paragraph (1).

9 (b) MEDICAL BENEFITS.—A covered employee shall
10 receive medical benefits under section 3629 for that em-
11 ployee's occupational illness.

12 (c) BERYLLIUM SENSITIVITY MONITORING.—An in-
13 dividual receiving beryllium sensitivity monitoring under
14 this subsection shall receive the following:

15 (1) A thorough medical examination to confirm
16 the nature and extent of the individual's established
17 beryllium sensitivity.

18 (2) Regular medical examinations thereafter to
19 determine whether that individual has developed es-
20 tablished chronic beryllium disease.

21 (d) PAYMENT FROM COMPENSATION FUND.—The
22 compensation provided under this section, when author-
23 ized or approved by the President, shall be paid from the
24 compensation fund established under section 3612.

1 (e) SURVIVORS.—(1) Subject to the provisions of this
2 section, if a covered employee dies before the effective date
3 specified in subsection (f), whether or not the death is a
4 result of that employee's occupational illness, a survivor
5 of that employee may, on behalf of that survivor and any
6 other survivors of that employee, receive the compensation
7 provided for under this section.

8 (2) The right to receive compensation under this sec-
9 tion shall be afforded to survivors in the same order of
10 precedence as that set forth in section 8109 of title 5,
11 United States Code.

12 (f) EFFECTIVE DATE.—This section shall take effect
13 on July 31, 2001, unless Congress otherwise provides in
14 an Act enacted before that date.

15 **SEC. 3629. MEDICAL BENEFITS.**

16 (a) MEDICAL BENEFITS PROVIDED.—The United
17 States shall furnish, to an individual receiving medical
18 benefits under this section for an illness, the services, ap-
19 pliances, and supplies prescribed or recommended by a
20 qualified physician for that illness, which the President
21 considers likely to cure, give relief, or reduce the degree
22 or the period of that illness.

23 (b) PERSONS FURNISHING BENEFITS.—(1) These
24 services, appliances, and supplies shall be furnished by or
25 on the order of United States medical officers and hos-

1 pitals, or, at the individual's option, by or on the order
2 of physicians and hospitals designated or approved by the
3 President.

4 (2) The individual may initially select a physician to
5 provide medical services, appliances, and supplies under
6 this section in accordance with such regulations and in-
7 structions as the President considers necessary.

8 (c) TRANSPORTATION AND EXPENSES.—The indi-
9 vidual may be furnished necessary and reasonable trans-
10 portation and expenses incident to the securing of such
11 services, appliances, and supplies.

12 (d) COMMENCEMENT OF BENEFITS.—An individual
13 receiving benefits under this section shall be furnished
14 those benefits as of the date on which that individual sub-
15 mitted the claim for those benefits in accordance with this
16 title.

17 (e) PAYMENT FROM COMPENSATION FUND.—The
18 benefits provided under this section, when authorized or
19 approved by the President, shall be paid from the com-
20 pensation fund established under section 3612.

21 (f) EFFECTIVE DATE.—This section shall take effect
22 on July 31, 2001, unless Congress otherwise provides in
23 an Act enacted before that date.

1 **SEC. 3630. SEPARATE TREATMENT OF CERTAIN URANIUM**
2 **EMPLOYEES.**

3 (a) **COMPENSATION PROVIDED.**—An individual who
4 receives, or has received, \$100,000 under section 5 of the
5 Radiation Exposure Compensation Act (42 U.S.C. 2210
6 note) for a claim made under that Act (hereinafter in this
7 section referred to as a “covered uranium employee”), or
8 the survivor of that covered uranium employee if the em-
9 ployee is deceased, shall receive compensation under this
10 section in the amount of \$50,000.

11 (b) **MEDICAL BENEFITS.**—A covered uranium em-
12 ployee shall receive medical benefits under section 3629
13 for the illness for which that employee received \$100,000
14 under section 5 of that Act.

15 (c) **COORDINATION WITH RECA.**—The compensation
16 and benefits provided in subsections (a) and (b) are sepa-
17 rate from any compensation or benefits provided under
18 that Act.

19 (d) **PAYMENT FROM COMPENSATION FUND.**—The
20 compensation provided under this section, when author-
21 ized or approved by the President, shall be paid from the
22 compensation fund established under section 3612.

23 (e) **SURVIVORS.**—(1) Subject to the provisions of this
24 section, if a covered uranium employee dies before the ef-
25 fective date specified in subsection (g), whether or not the
26 death is a result of the illness specified in subsection (b),

1 a survivor of that employee may, on behalf of that survivor
2 and any other survivors of that employee, receive the com-
3 pensation provided for under this section.

4 (2) The right to receive compensation under this sec-
5 tion shall be afforded to survivors in the same order of
6 precedence as that set forth in section 8109 of title 5,
7 United States Code.

8 (f) PROCEDURES REQUIRED.—The President shall
9 establish procedures to identify and notify each covered
10 uranium employee, or the survivor of that covered ura-
11 nium employee if that employee is deceased, of the avail-
12 ability of compensation and benefits under this section.

13 (g) EFFECTIVE DATE.—This section shall take effect
14 on July 31, 2001, unless Congress otherwise provides in
15 an Act enacted before that date.

16 **SEC. 3631. ASSISTANCE FOR CLAIMANTS AND POTENTIAL**
17 **CLAIMANTS.**

18 (a) ASSISTANCE FOR CLAIMANTS.—The President
19 shall, upon the receipt of a request for assistance from
20 a claimant under the compensation program, provide as-
21 sistance to the claimant in connection with the claim,
22 including—

23 (1) assistance in securing medical testing and
24 diagnostic services necessary to establish the exist-

1 ence of a covered beryllium illness, chronic silicosis,
2 or cancer; and

3 (2) such other assistance as may be required to
4 develop facts pertinent to the claim.

5 (b) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The
6 President shall take appropriate actions to inform and as-
7 sist covered employees who are potential claimants under
8 the compensation program, and other potential claimants
9 under the compensation program, of the availability of
10 compensation under the compensation program, including
11 actions to—

12 (1) ensure the ready availability, in paper and
13 electronic format, of forms necessary for making
14 claims;

15 (2) provide such covered employees and other
16 potential claimants with information and other sup-
17 port necessary for making claims, including—

18 (A) medical protocols for medical testing
19 and diagnosis to establish the existence of a
20 covered beryllium illness, chronic silicosis, or
21 cancer; and

22 (B) lists of vendors approved for providing
23 laboratory services related to such medical test-
24 ing and diagnosis; and

1 (3) provide such additional assistance to such
2 covered employees and other potential claimants as
3 may be required for the development of facts perti-
4 nent to a claim.

5 (c) INFORMATION FROM BERYLLIUM VENDORS AND
6 OTHER CONTRACTORS.—As part of the assistance pro-
7 gram provided under subsections (a) and (b), and as per-
8 mitted by law, the Secretary of Energy shall, upon the
9 request of the President, require a beryllium vendor or
10 other Department of Energy contractor or subcontractor
11 to provide information relevant to a claim or potential
12 claim under the compensation program to the President.

13 **Subtitle C—Treatment, Coordina-**
14 **tion, and Forfeiture of Com-**
15 **ensation and Benefits**

16 **SEC. 3641. OFFSET FOR CERTAIN PAYMENTS.**

17 A payment of compensation to an individual, or to
18 a survivor of that individual, under subtitle B shall be off-
19 set by the amount of any payment made pursuant to a
20 final award or settlement on a claim (other than a claim
21 for worker's compensation), against any person, that is
22 based on injuries incurred by that individual on account
23 of the exposure of a covered beryllium employee, covered
24 employee with cancer, covered employee with chronic sili-
25 cosis (as defined in section 3627), or covered uranium em-

1 ployee (as defined in section 3630), while so employed, to
2 beryllium, radiation, silica, or radiation, respectively.

3 **SEC. 3642. SUBROGATION OF THE UNITED STATES.**

4 Upon payment of compensation under subtitle B, the
5 United States is subrogated for the amount of the pay-
6 ment to a right or claim that the individual to whom the
7 payment was made may have against any person on ac-
8 count of injuries referred to in section 3641.

9 **SEC. 3643. PAYMENT IN FULL SETTLEMENT OF CLAIMS.**

10 The acceptance by an individual of payment of com-
11 pensation under subtitle B with respect to a covered em-
12 ployee shall be in full satisfaction of all claims of or on
13 behalf of that individual against the United States,
14 against a Department of Energy contractor or subcon-
15 tractor, beryllium vendor, or atomic weapons employer, or
16 against any person with respect to that person's perform-
17 ance of a contract with the United States, that arise out
18 of an exposure referred to in section 3641.

19 **SEC. 3644. EXCLUSIVITY OF REMEDY AGAINST THE UNITED**
20 **STATES AND AGAINST CONTRACTORS AND**
21 **SUBCONTRACTORS.**

22 (a) IN GENERAL.—The liability of the United States
23 or an instrumentality of the United States under this title
24 with respect to a cancer (including a specified cancer),
25 chronic silicosis, covered beryllium illness, or death related

1 thereto of a covered employee is exclusive and instead of
2 all other liability—

3 (1) of—

4 (A) the United States;

5 (B) any instrumentality of the United
6 States;

7 (C) a contractor that contracted with the
8 Department of Energy to provide management
9 and operation, management and integration, or
10 environmental remediation of a Department of
11 Energy facility (in its capacity as a contractor);

12 (D) a subcontractor that provided services,
13 including construction, at a Department of En-
14 ergy facility (in its capacity as a subcontractor);
15 and

16 (E) an employee, agent, or assign of an en-
17 tity specified in subparagraphs (A) through
18 (D);

19 (2) to—

20 (A) the covered employee;

21 (B) the covered employee's legal represent-
22 ative, spouse, dependents, survivors and next of
23 kin; and

24 (C) any other person, including any third
25 party as to whom the covered employee, or the

1 covered employee's legal representative, spouse,
2 dependents, survivors, or next of kin, has a
3 cause of action relating to the cancer (including
4 a specified cancer), chronic silicosis, covered be-
5 ryllium illness, or death, otherwise entitled to
6 recover damages from the United States, the
7 instrumentality, the contractor, the subcon-
8 tractor, or the employee, agent, or assign of one
9 of them;

10 because of the cancer (including a specified cancer), chron-
11 ic silicosis, covered beryllium illness, or death in any pro-
12 ceeding or action including a direct judicial proceeding,
13 a civil action, a proceeding in admiralty, or a proceeding
14 under a tort liability statute or the common law.

15 (b) APPLICABILITY.—This section applies to all cases
16 filed on or after the date of the enactment of this Act.

17 (c) WORKERS' COMPENSATION.—This section does
18 not apply to an administrative or judicial proceeding under
19 a State or Federal workers' compensation law.

20 **SEC. 3645. ELECTION OF REMEDY FOR BERYLLIUM EM-**
21 **PLOYEES AND ATOMIC WEAPONS EMPLOY-**
22 **EES.**

23 (a) ELECTION TO FILE SUIT.—If a tort case is filed
24 after the date of the enactment of this Act, alleging a
25 claim referred to in section 3643 against a beryllium ven-

1 dor or atomic weapons employer, the plaintiff shall not
2 be eligible for compensation or benefits under subtitle B
3 unless the plaintiff files such case within the applicable
4 time limits in subsection (b).

5 (b) APPLICABLE TIME LIMITS.—A case described in
6 subsection (a) shall be filed not later than the later of—

7 (1) the date that is 30 months after the date
8 of the enactment of this Act; or

9 (2) the date that is 30 months after the date
10 the plaintiff first becomes aware that an illness cov-
11 ered by subtitle B of a covered employee may be
12 connected to the exposure of the covered employee in
13 the performance of duty.

14 (c) DISMISSAL OF CLAIMS.—Unless a case filed
15 under subsection (a) is dismissed prior to the time limits
16 in subsection (b), the plaintiff shall not be eligible for com-
17 pensation under subtitle B.

18 (d) DISMISSAL OF PENDING SUIT.—If a tort case
19 was filed on or before the date of the enactment of this
20 Act, alleging a claim referred to in section 3643 against
21 a beryllium vendor or atomic weapons employer, the plain-
22 tiff shall not be eligible for compensation or benefits under
23 subtitle B unless the plaintiff dismisses such case not later
24 than December 31, 2003.

1 (e) WORKERS' COMPENSATION.—This section does
2 not apply to an administrative or judicial proceeding under
3 a State or Federal workers' compensation law.

4 **SEC. 3646. CERTIFICATION OF TREATMENT OF PAYMENTS**
5 **UNDER OTHER LAWS.**

6 Compensation or benefits provided to an individual
7 under subtitle B—

8 (1) shall be treated for purposes of the internal
9 revenue laws of the United States as damages for
10 human suffering; and

11 (2) shall not be included as income or resources
12 for purposes of determining eligibility to receive ben-
13 efits described in section 3803(c)(2)(C) of title 31,
14 United States Code, or the amount of such benefits.

15 **SEC. 3647. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE;**
16 **CHOICE OF REMEDIES.**

17 (a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—
18 No claim cognizable under subtitle B shall be assignable
19 or transferable.

20 (b) CHOICE OF REMEDIES.—No individual may re-
21 ceive more than one payment of compensation under sub-
22 title B.

23 **SEC. 3648. ATTORNEY FEES.**

24 (a) GENERAL RULE.—Notwithstanding any contract,
25 the representative of an individual may not receive, for

1 services rendered in connection with the claim of an indi-
2 vidual under subtitle B, more than that percentage speci-
3 fied in subsection (b) of a payment made under subtitle
4 B on such claim.

5 (b) APPLICABLE PERCENTAGE LIMITATIONS.—The
6 percentage referred to in subsection (a) is—

7 (1) 2 percent for the filing of an initial claim;
8 and

9 (2) 10 percent with respect to any claim with
10 respect to which a representative has made a con-
11 tract for services before the date of the enactment
12 of this Act.

13 (c) PENALTY.—Any such representative who violates
14 this section shall be fined not more than \$5,000.

15 **SEC. 3649. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF**
16 **DAMAGES.**

17 A payment under subtitle B shall not be considered
18 as any form of compensation or reimbursement for a loss
19 for purposes of imposing liability on any individual receiv-
20 ing such payment, on the basis of such receipt, to repay
21 any insurance carrier for insurance payments, or to repay
22 any person on account of worker's compensation pay-
23 ments; and a payment under subtitle B shall not affect
24 any claim against an insurance carrier with respect to in-

1 surance or against any person with respect to worker's
2 compensation.

3 **SEC. 3650. FORFEITURE OF BENEFITS BY CONVICTED FEL-**
4 **ONS.**

5 (a) FORFEITURE OF COMPENSATION.—Any indi-
6 vidual convicted of a violation of section 1920 of title 18,
7 United States Code, or any other Federal or State crimi-
8 nal statute relating to fraud in the application for or re-
9 ceipt of any benefit under subtitle B or under any other
10 Federal or State workers' compensation law, shall forfeit
11 (as of the date of such conviction) any entitlement to any
12 compensation or benefit under subtitle B such individual
13 would otherwise be awarded for any injury, illness or death
14 covered by subtitle B for which the time of injury was
15 on or before the date of the conviction.

16 (b) INFORMATION.—Notwithstanding section 552a of
17 title 5, United States Code, or any other Federal or State
18 law, an agency of the United States, a State, or a political
19 subdivision of a State shall make available to the Presi-
20 dent, upon written request from the President and if the
21 President requires the information to carry out this sec-
22 tion, the names and Social Security account numbers of
23 individuals confined, for conviction of a felony, in a jail,
24 prison, or other penal institution or correctional facility
25 under the jurisdiction of that agency.

1 **SEC. 3651. COORDINATION WITH OTHER FEDERAL RADI-**
2 **ATION COMPENSATION LAWS.**

3 Except in accordance with section 3630, an individual
4 may not receive compensation or benefits under the com-
5 pensation program for cancer and also receive compensa-
6 tion under the Radiation Exposure Compensation Act (42
7 U.S.C. 2210 note) or section 1112(c) of title 38, United
8 States Code.

9 **Subtitle D—Assistance in State**
10 **Workers’ Compensation Pro-**
11 **ceedings**

12 **SEC. 3661. AGREEMENTS WITH STATES.**

13 (a) AGREEMENTS AUTHORIZED.—The Secretary of
14 Energy (hereinafter in this section referred to as the “Sec-
15 retary”) may enter into agreements with the chief execu-
16 tive officer of a State to provide assistance to a Depart-
17 ment of Energy contractor employee in filing a claim
18 under the appropriate State workers’ compensation sys-
19 tem.

20 (b) PROCEDURE.—Pursuant to agreements under
21 subsection (a), the Secretary may—

22 (1) establish procedures under which an indi-
23 vidual may submit an application for review and as-
24 sistance under this section; and

1 (2) review an application submitted under this
2 section and determine whether the applicant sub-
3 mitted reasonable evidence that—

4 (A) the application was filed by or on be-
5 half of a Department of Energy contractor em-
6 ployee or employee's estate; and

7 (B) the illness or death of the Department
8 of Energy contractor employee may have been
9 related to employment at a Department of En-
10 ergy facility.

11 (c) SUBMITTAL OF APPLICATIONS TO PANELS.—If
12 provided in an agreement under subsection (a), and if the
13 Secretary determines that the applicant submitted reason-
14 able evidence under subsection (b)(2), the Secretary shall
15 submit the application to a physicians panel established
16 under subsection (d). The Secretary shall assist the em-
17 ployee in obtaining additional evidence within the control
18 of the Department of Energy and relevant to the panel's
19 deliberations.

20 (d) COMPOSITION AND OPERATION OF PANELS.—(1)
21 The Secretary shall inform the Secretary of Health and
22 Human Services of the number of physicians panels the
23 Secretary has determined to be appropriate to administer
24 this section, the number of physicians needed for each

1 panel, and the area of jurisdiction of each panel. The Sec-
2 retary may determine to have only one panel.

3 (2)(A) The Secretary of Health and Human Services
4 shall appoint panel members with experience and com-
5 petency in diagnosing occupational illnesses under section
6 3109 of title 5, United States Code.

7 (B) Each member of a panel shall be paid at the rate
8 of pay payable for level III of the Executive Schedule for
9 each day (including travel time) the member is engaged
10 in the work of a panel.

11 (3) A panel shall review an application submitted to
12 it by the Secretary and determine, under guidelines estab-
13 lished by the Secretary, by regulation, whether the illness
14 or death that is the subject of the application arose out
15 of and in the course of employment by the Department
16 of Energy and exposure to a toxic substance at a Depart-
17 ment of Energy facility.

18 (4) At the request of a panel, the Secretary and a
19 contractor who employed a Department of Energy con-
20 tractor employee shall provide additional information rel-
21 evant to the panel's deliberations. A panel may consult
22 specialists in relevant fields as it determines necessary.

23 (5) Once a panel has made a determination under
24 paragraph (3), it shall report to the Secretary its deter-
25 mination and the basis for the determination.

1 (6) A panel established under this subsection shall
2 not be subject to the Federal Advisory Committee Act (5
3 U.S.C. App.).

4 (e) ASSISTANCE.—If provided in an agreement under
5 subsection (a)—

6 (1) the Secretary shall review a panel's deter-
7 mination made under subsection (d), information the
8 panel considered in reaching its determination, any
9 relevant new information not reasonably available at
10 the time of the panel's deliberations, and the basis
11 for the panel's determination;

12 (2) as a result of the review under paragraph
13 (1), the Secretary shall accept the panel's deter-
14 mination in the absence of significant evidence to
15 the contrary; and

16 (3) if the panel has made a positive determina-
17 tion under subsection (d) and the Secretary accepts
18 the determination under paragraph (2), or the panel
19 has made a negative determination under subsection
20 (d) and the Secretary finds significant evidence to
21 the contrary—

22 (A) the Secretary shall assist the applicant
23 to file a claim under the appropriate State
24 workers' compensation system based on the

1 health condition that was the subject of the de-
2 termination;

3 (B) the Secretary thereafter—

4 (i) may not contest such claim;

5 (ii) may not contest an award made
6 regarding such claim; and

7 (iii) may, to the extent permitted by
8 law, direct the Department of Energy con-
9 tractor who employed the applicant not to
10 contest such claim or such award,

11 unless the Secretary finds significant new evi-
12 dence to justify such contest; and

13 (C) any costs of contesting a claim or an
14 award regarding the claim incurred by the con-
15 tractor who employed the Department of En-
16 ergy contractor employee who is the subject of
17 the claim shall not be an allowable cost under
18 a Department of Energy contract.

19 (f) INFORMATION.—At the request of the Secretary,
20 a contractor who employed a Department of Energy con-
21 tractor employee shall make available to the Secretary and
22 the employee information relevant to deliberations under
23 this section.

24 (g) GAO REPORT.—Not later than February 1,
25 2002, the Comptroller General shall submit to Congress

1 a report on the implementation by the Department of En-
2 ergy of the provisions of this section and of the effective-
3 ness of the program under this section in assisting Depart-
4 ment of Energy contractor employees in obtaining com-
5 pensation for occupational illness.

